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VIOLET BLUE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

VIOLET BLUE, an Individual,  
Plaintiff,

v.

ADA MAE JOHNSON a/k/a ADA  
~~WOFFINDEN, WOOFINDEN~~, an  
individual d/b/a VIOLET BLUE a/k/a  
VIOLET a/k/a VIOLET LUST;  
~~ASSASSIN PICTURES VIOLET BLUE~~,  
INC., a California Corporation;  
~~ASSASSINCASH.COM; BILL T. FOX~~,  
an individual, a/k/a BILL FOX; FIVE  
STAR VIDEO L.C., an Arizona Limited  
Liability Company a/k/a Five Star Video  
Distributors LLC d/b/a Five Star  
Fulfillment; and DOES 1-10,  
Defendants.

Case No. C 07-5370 MJJ

**FIRST AMENDED COMPLAINT FOR (1)  
TRADEMARK INFRINGEMENT, (2)  
TRADEMARK DILUTION, (3) VIOLATION  
OF CAL. CIVIL CODE § 3344; (4) UNFAIR  
COMPETITION**

**DEMAND FOR JURY TRIAL**

Plaintiff VIOLET BLUE, an individual, for her First Amended Complaint ~~complaint~~  
against Defendant ADA MAE JOHNSON a/k/a ADA ~~WOFFINDEN, WOOFINDEN~~, an  
individual d/b/a VIOLET BLUE a/k/a VIOLET a/k/a VIOLET LUST (hereinafter "Defendant  
Johnson"); ~~ASSASSIN PICTURES; VIOLET BLUE~~, INC., a California Corporation (hereinafter

1 “Defendant Assassin Pictures”); ASSASSINCASH.COM (hereinafter Defendant  
 2 AssassinCash”); BILL T. FOX, an individual a/k/a BILL FOX (hereinafter “Defendant Fox”);  
 3 FIVE STAR VIDEO L.C., an Arizona Limited Liability Company a/k/a Five Star Video  
 4 Distributors LLC d/b/a Five Star Fulfillment (hereinafter “Defendant Five Star”); and DOES 1-  
 5 10, alleges as follows:

### 6 **I. PARTIES**

7 1. Plaintiff Violet Blue (hereinafter ~~referred to as~~ “Plaintiff,” “Blue,” or “Plaintiff  
 8 Blue”) is an individual, residing and having her principal place of business in San Francisco,  
 9 California, in the county of San Francisco.

10 2. Plaintiff is informed and believes and thereon alleges that Defendant Ada Mae  
 11 Johnson, a/k/a Ada ~~Woffinden, Woofinden~~, an individual d/b/a Violet Blue a/k/a Violet a/k/a  
 12 Violet Lust (~~hereinafter referred to as “Defendant Johnson”~~) is an individual currently residing in  
 13 ~~Pacific Beach, Aberdeen~~, Washington.

14 3. Plaintiff is informed and believes and thereon alleges that ~~Violet Blue, Inc.~~  
 15 (~~hereinafter referred to individually as “Defendant Assassin Pictures Inc., VBI”~~) is a California  
 16 ~~Corporation, with incorporation, having~~ its principal place of business at ~~5825 Winnetka Avenue,~~  
 17 ~~Woodland Hills, 11777 San Vicente Boulevard, #747, in Los Angeles,~~ California, in the county  
 18 of Los Angeles.

19 4. ~~Plaintiff is informed and believes and thereon alleges that (Hereinafter, Defendant~~  
 20 ~~AssassinCash.com is a business of unknown form with activities in California, and is an entity~~  
 21 ~~related to and/or owned or operated by Johnson and Defendant Assassin Pictures and/or~~  
 22 ~~Defendant Fox. Plaintiff is informed and believes and thereon alleges that Defendant~~  
 23 ~~AssassinCash is operated from Defendant Fox’s address 25542 North Street, San Bernardino,~~  
 24 ~~California, in the county of San Bernardino.~~

25 5. ~~Plaintiff is informed and believes and thereon alleges that Bill T. Fox is an~~  
 26 ~~individual also known as Bill Fox currently residing at an unknown address in San Bernardino or~~  
 27 ~~Los Angeles county, California.~~

28 6. ~~Plaintiff is informed and believes and thereon alleges that Defendant Five Star~~

Video L.C., is an Arizona Limited Liability Company also known ~~VBI~~ are referred to collectively as “Five Star Video Distributors LLC” and also doing business as “Five Star Fulfillment”. Plaintiff is informed and believes and thereon alleges that Defendant Five Star has a principal place of business located at 1415 East University Drive, Suite 5, Tempe, Arizona. ~~“Defendants”~~.)

///

7. Doe Defendants 1 through 10, inclusive (collectively referred to with Defendant Johnson, Defendant Assassin Pictures, Defendant AssassinCash, Defendant Fox, and Defendant Five Star ~~VBI~~ as “Defendants,” and individually referred to as “Doe Defendant(s)”), are sued herein under fictitious names because their true names, capacities, and the extent of their involvement is unknown to Plaintiff Blue. Blue will seek leave of Court to amend this complaint to allege such names, capacities, and extent of involvement as soon as the information is ascertained. Plaintiff Blue is informed and believes, and thereon alleges, that each fictitious Doe Defendant(s) is responsible in some manner for the occurrences alleged herein and for damages suffered by Blue.

## **II. JURISDICTION AND VENUE**

8. The first and second claims for relief arise under the Lanham Trademark Act, 15 U.S.C. §§ 1051, et seq. Jurisdiction of these claims is therefore founded on 28 U.S.C. § 1338. This Court has supplemental jurisdiction over the third and fourth claim for relief, for statutory misappropriation of Plaintiff’s right of publicity and unfair competition, pursuant to 28 U.S.C. § 1367.

9. Plaintiff is informed and believes and thereon alleges that Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2).

10. Plaintiff is informed and believes and thereon alleges that Defendant Johnson, Defendant Assassin Pictures, Defendant AssassinCash, Defendant Fox, and Defendant Five Star each receive monetary income through the paid subscription website [www.violetblue.org](http://www.violetblue.org) for Defendant Johnson’s performances under the name “Violet Blue” from residents in this Judicial District.

11. Plaintiff is informed and believes and thereon alleges that Defendant Five Star has

1 entered contracts with third parties in this Judicial District to support the distribution of  
 2 pornographic materials.

3 12. Plaintiff is informed and believes and thereon alleges that Defendant Five Star  
 4 maintains ongoing business relationships and/or agreements with entities distributing  
 5 pornographic content in San Francisco, California, including the following: Gay Asian  
 6 Amateurs, P Beaumont, 2370 Market Street #440, San Francisco, California; Ladyboy, Mr. A.  
 7 Rau, 1032 Market Street Suite # G, San Francisco, California; Pantheon, C. Turner, 584 Castro  
 8 St., San Francisco, California; Redboard, A Shustak, 170 Clara St., San Francisco, California.

9 13. Plaintiff is informed and believes and thereon alleges that Defendant Five Star has  
 10 entered electronic contracts through its website Terms of Service with individuals in this Judicial  
 11 District.

12 14. Plaintiff is informed and believes and thereon alleges that Defendant Five Star  
 13 receives revenue through the sale of DVDs from www.movies.violetblue.org, directly from  
 14 residents within this Judicial District.

15 15. Plaintiff is informed and believes and thereon alleges that Defendant Five Star  
 16 receives income directly from residents of this Judicial District for the sale of films including  
 17 films of Defendant Johnson in her persona as "Violet Blue" through the website operated by  
 18 Defendant Five Star at www.movies.violetblue.org.

### 19 **III. INTRADISTRICT ASSIGNMENT**

20 16. This is an intellectual property action subject to district-wide assignment under  
 21 Local Rule 3-2(c).

### 22 **IV. FACTS**

#### 23 A. PLAINTIFF **BLUE**'S BACKGROUND.

24 17. Plaintiff Blue is a well-known and respected personality in the field of human  
 25 sexuality, sexual health, and relationship education. Since 1999, Blue has developed her  
 26 reputation as a writer, lecturer, blogger, podcaster, editor, and newspaper communist, among  
 27 other forms of media and education. Blue's significant reputation in the community was  
 28 achieved through hard work, substantial effort, and the high quality that makes her work

1 attractive to a large and mainstream audience.

2 18. From 1999 to the present, Plaintiff Blue has regularly written articles dedicated to  
3 human sexuality, exclusively under her own name, which have been published in various  
4 national magazines, newspapers, and websites. Her work has recently been featured in the July 11  
5 11  
6 2007 issue of *O, the Oprah Magazine*. (A true and correct copy of this article is attached to this  
7 Complaint as Exhibit A.)

8 19. Plaintiff Blue also maintains an internet website entitled “Violet Blue™: Open  
9 Source Sex” (located at <http://www.tinynibbles.com/>) to provide access to her works. The site  
10 focuses on healthy attitudes towards human sexuality and safe sex practices. As a result of the  
11 good reputation and high quality of work produced by Plaintiff Blue, the website regularly  
12 attracts over 4.3 million visitors each year.

13 20. Owing in no small part to her fame and notoriety, Plaintiff Blue routinely lectures  
14 at the University of California’s Boalt Hall School of Law (Berkeley), the University of  
15 California at San Francisco, and at numerous new media conventions, to live audiences as large  
16 as 300 persons.

17 21. Plaintiff Blue also hosts a podcast series entitled “Violet Blue™: Open Source  
18 Sex”. Her podcast is distributed through the internet to a global audience of over 3.2 million  
19 subscribers. “Violet Blue™: Open Source Sex” has frequently been ranked among the ten most  
20 popular podcasts by the iTunes Music Store®, which is the world’s leading distributor of  
21 podcasts.

22 22. In the January 23, 2007, online issue of *Forbes* magazine, Plaintiff Blue was  
23 honored as one of the Internet’s most influential figures in an article entitled “Forbes Web Celeb  
24 25”. (A true and correct copy of the column as provided at <http://www.forbes.com> is attached  
25 hereto as Exhibit B.)

26 23. Plaintiff Blue’s column “Open Source Sex” appears on a weekly basis on the  
27 internet at SFGate.com, the website of the *San Francisco Chronicle*, a well-respected and long-  
28 running daily newspaper having a significant daily regional, national, and international

1 distribution. SFGate.com is the sixth most popular newspaper website in the United States, with  
2 a monthly audience of over four million unique visitors.

3 24. Plaintiff Blue is also a published author, having authored seventeen books, which  
4 are currently for sale at, among other places, Amazon.com, the leading online retailer of  
5 mainstream printed material. These books, dedicated to helping couples improve their  
6 relationships, have been well received by a large and mainstream audience. To date, Plaintiff  
7 Blue's published books have sold in excess of 300,000 copies in 32 countries, and have been  
8 translated into Spanish, French, Italian, with other languages forthcoming.

9 25. A true and correct copy of a photograph of Plaintiff Blue, depicting her  
10 longstanding public look including short "betty" bangs, long, dark/black hair color, is attached  
11 hereto as Exhibit C.

12 26. As a result of Plaintiff Blue's time, effort, and talent, she has become widely  
13 recognized as a premier sexual health commentator in California, throughout the country, and  
14 throughout the world. For her entire career, her writings, publications, programs, speaking  
15 engagements, and educational initiatives have all been associated exclusively with her name and  
16 trademark: Violet Blue.

17 B. DEFENDANT ~~JOHNSON'S CONDUCT.~~

18 27. Defendant Johnson is an American pornographic actress, who has adopted the  
19 name "Violet Blue" for use in her acting and pornography-related appearances.

20 28. Plaintiff is informed and believes and thereon alleges that in recent years  
21 Defendant Johnson has appeared in dozens of pornographic films in which she either starred or  
22 co-starred under the name "Violet Blue." These films include, but are not limited to, such titles  
23 as "My Ass #12," "I've Never Done That Before #1," "Oral Adventures of Craven Morehead  
24 #7," "Bend Over and Say Ahhh 4," "Whore of the Rings," "Shut Up and Blow Me #29", and  
25 "Who Violet Blew." Plaintiff is informed and believes and thereon alleges that as recently as  
26 2007, Defendant Johnson appeared in a film entitled "Romantic Desires", under the name Violet  
27 Blue.  
28

29. Plaintiff is informed and believes and thereon alleges that the recording of Johnson's pornographic performances occurred in the State of California.

30. The recordings of Defendant Johnson's pornographic performances are available for purchase in this ~~Judicial District~~~~judicial district~~ at, among other locations, Good Vibrations, a retail store located at 603 Valencia Street, San Francisco, California. The recordings of Johnson's pornographic performances are also available for sale to individuals in this ~~Judicial District~~~~judicial district~~ through internet websites, including at [www.violetblue.org](http://www.violetblue.org) and [www.movies.violetblue.org](http://www.movies.violetblue.org).

31. Plaintiff is informed and believes and thereon alleges that Defendant Johnson makes regular trips to this ~~Judicial District~~~~judicial district~~ for purposes relating to her pornographic performances and the conduct complained of in this action. For example, at least as recently as October 2006, Plaintiff is informed and believes and thereon alleges that Defendant Johnson personally attended press functions and industry events in this ~~Judicial District~~~~judicial district~~ for purposes of promoting the sales and distribution of her pornographic performances and ~~website, www.violetblue.org.~~

32. Plaintiff is informed and believes and thereon alleges that ~~Defendant, in 2001,~~ Johnson ~~has filmed numerous pornographic performances in registered (or caused to be registered)~~ the ~~State of California under the~~ domain name "[Violet Blue.](http://www.violetblue.org)"~~www.violetblue.org.~~

33. Plaintiff is informed and believes and thereon alleges that ~~Defendant, in 2005,~~ Johnson ~~has entered contracts with the Exotic Erotic Ball and/or Perry Mann, Inc. for appearances under the~~ ~~was instrumental in founding Defendant VBI, a California corporation created to take title to the domain~~ name "[Violet Blue](http://www.violetblue.org)" ~~at the Exotic Erotic Ball taking place in this Judicial District.~~

34. ~~Plaintiff~~~~www.violetblue.org. VBI~~ is informed and believes and thereon alleges the ~~current owner of that~~ Defendant Johnson's appearances at the Exotic Erotic Ball under the ~~domain~~ name "[Violet Blue](http://www.violetblue.org)" were advertised in newspapers distributed in this Judicial District, including the *SF Weekly* print newspaper as recently as October 2007. Plaintiff is further informed and believes and thereon alleges, ~~and uses~~ that Defendant Johnson's appearances at the

1 Exotic Erotic Ball were also advertised on-line via the Exotic Erotic Ball website  
 2 (www.exoticeroticball.com) and were perceived by individuals worldwide, including residents in  
 3 this Judicial District domain for the purposes of promoting and distributing pornographic and  
 4 other related content under the name “Violet Blue”.

5 35. Defendant Johnson registered or caused to be registered the domain name  
 6 www.violetblue.org in 2001.

7 36. Sometime after the registration of the www.violetblue.org website domain,  
 8 Defendant Johnson, ~~and thereafter Defendant VBI,~~ established a paid-subscription pornographic  
 9 website at that domain. This paid-subscription pornographic website has been, and continues to  
 10 be, dedicated to the ~~pornographicobscene~~ exploits of Defendant Johnson’s “Violet Blue”  
 11 persona. The www.violetblue.org website ~~and~~ features images of Defendant Johnson designed to  
 12 strongly resemble the real-life and long-standing appearance of Plaintiff Blue, including her long  
 13 dark/black hair and short “betty bangs”. (Attached hereto as Exhibit **D**, is a true and correct copy  
 14 of screen shots of pages of the violetblue.org website (redacted for public view).)

15 37. Plaintiff is informed~~Upon information~~ and believes and thereon alleges that  
 16 Defendant Johnson is connected with “David Claiborne” the current “registrant” of the domain  
 17 name www.violetblue.org. Defendant Johnson is currently identified as the “administrative” and  
 18 “technical” contact for the domain name www.violetblue.org.

19 38. Plaintiff is informed and believes and thereon alleges that Defendant Johnson  
 20 receives~~belief, Defendants receive~~ revenue through the paid subscription~~violetblue.org~~ website  
 21 www.violetblue.org directly from residents within this Judicial District~~judicial district~~.

### 22 C. DEFENDANT ASSASSIN PICTURES.

23 39. Plaintiff is informed and believes and thereon alleges that Defendant Assassin  
 24 Pictures conducts business in this Judicial District on a regular basis.

25 40. Plaintiff is informed and believes and thereon alleges that Defendant Assassin  
 26 Pictures operates a web-based business with a website located on the internet at  
 27 www.assassinpictures.com, and offers services including website design, programming and  
 28 database design, web hosting, billing services, printing services and production services.



1        41. Plaintiff is informed and believes and thereon alleges that Defendant Johnson's  
2 paid subscription website, www.violetblue.org, is designed, programmed, hosted, billed and/or  
3 operated by Defendant Assassin Pictures.

4        42. Plaintiff is informed and believes and thereon alleges that Defendant Assassin  
5 Pictures receives income directly as a result of the paid subscriptions and other commercial  
6 activity conducted through Defendant Johnson's website, www.violetblue.org, including through  
7 the distribution of pornographic images of Defendant Johnson using the name "Violet Blue" and  
8 bearing the name and likeness of Plaintiff Violet Blue.

9        43. Plaintiff is informed and believes and thereon alleges that Defendant  
10 AssassinCash receives revenue through Defendant Johnson's paid subscription website,  
11 www.violetblue.org, directly from residents within this Judicial District.

12        **D. DEFENDANT ASSASSINCASH.**

13        44. Plaintiff is informed and believes and thereon alleges that Defendant  
14 AssassinCash conducts business in this Judicial District on a regular basis.

15        45. Plaintiff is informed and believes and thereon alleges that Defendant  
16 AssassinCash is a web-based business with a website located on the internet at  
17 www.assassincash.com. Defendant is informed and believes and thereon alleges that Defendant  
18 AssassinCash is operated by Defendant Assassin Pictures.

19        46. Defendant is informed and believes and thereon alleges that AssassinCash is  
20 operated for the purpose of promoting an adult entertainment "affiliate program" to assist  
21 individuals "to make a killing in the adult web business" (emphasis in original). Plaintiff is  
22 further informed and believes and thereon alleges that the program offers individuals marketing  
23 opportunities including paid banner marketing and paid commissions for referrals to various  
24 adult-entertainment websites, including Defendant Johnson's website, www.violetblue.org.

25        47. Plaintiff is informed and believes and thereon alleges that Defendant  
26 AssassinCash receives income directly as a result of the commercial aspects of Defendant  
27 Johnson's website, www.violetblue.org, including through banner advertisements and affiliate  
28 marketing of pornographic content featuring Defendant Johnson using the name "Violet Blue"

1 and bearing the name and likeness of Plaintiff Violet Blue.

2 48. Plaintiff is informed and believes and thereon alleges that Defendant  
 3 AssassinCash receives revenue through Defendant Johnson's paid subscription website,  
 4 www.violetblue.org, directly from residents within this Judicial District.

5 **E. DEFENDANT FOX.**

6 49. Plaintiff is informed and believes and thereon alleges that Defendant Fox is the  
 7 "webmaster" for Defendant Johnson's website, www.violetblue.org, a "team member" of  
 8 Defendant Assassin Pictures and Defendant AssassinCash.

9 50. Plaintiff is informed and believes and thereon alleges that Defendant Fox controls  
 10 the content found on Defendant Johnson's website, www.violetblue.org, and was involved in the  
 11 registration of the domain www.violetblue.org.

12 51. Plaintiff is informed and believes and thereon alleges that Defendant Fox receives  
 13 revenue through Defendant Johnson's paid subscription website, www.violetblue.org, directly  
 14 from residents within this Judicial District.

15 **F. DEFENDANT FIVE STAR.**

16 52. Plaintiff is informed and believes and thereon alleges that Defendant Five Star is a  
 17 web-based business with a website located on the internet at www.fivestarc.com. Defendant is  
 18 informed and believes and thereon alleges that Defendant Five Star set up, operates and  
 19 maintains Defendant Johnson's online store located on the internet at  
 20 www.movies.violetblue.org.

21 53. Plaintiff is informed and believes and thereon alleges that Defendant Five Star  
 22 receives income directly as a result of the commercial aspects of Defendant Johnson's website,  
 23 www.violetblue.org, including through the sale of pornographic content (for example, on DVDs)  
 24 featuring Defendant Johnson using the name "Violet Blue" and bearing the name and likeness of  
 25 Plaintiff Violet Blue.

26 **G. ACTUAL CONFUSION AND THE DILUTION RESULTING FROM**  
 27 **DEFENDANTS' USE OF PLAINTIFF BLUE'S NAME AND LIKENESS.**

28 54. On or about October 27, 2006, Plaintiff Blue received several communications

1 from established journalists (including Justin Juul, writing for the *San Francisco Bay Guardian*)  
2 and acquaintances (including Fleshbot.com co-contributor Gram Ponante) expressing their  
3 surprise to learn that Plaintiff Blue was appearing at the “Exotic Erotic Ball” to be held the  
4 weekend of October 28, 2006, in South San Francisco, California. Plaintiff Blue had no  
5 appearances scheduled for the Exotic Erotic Ball, but learned that Defendant Johnson was  
6 scheduled to appear in her “Violet Blue” persona. Defendant Johnson’s appearance was  
7 advertised and promoted as an appearance by “Violet Blue”. The individuals who contacted  
8 Plaintiff Blue about the appearance were confused by advertisements for Defendant Johnson’s  
9 planned appearance at the Exotic Erotic Ball.

10 55. On-going public confusion continued in the spring of 2007. In an on-line audio  
11 program discussing the “Forbes Web Celeb 25” awards, the hosts of “This Week In Tech,” a  
12 well-known and widely distributed audio podcast, were also confused by Defendant’s use of  
13 Plaintiff’s name. For example, in episode 86 of This Week In Tech, the hosts (Leo Laporte, John  
14 Dvorak, Patrick Norton and Robert Heron) mocked several of the “Web Celebs” honored by  
15 Forbes.com. Plaintiff Blue drew attention to the mockery in her column for the San Francisco  
16 Chronicle published at SFGate.com. Co-host LaPorte responded that he had confused Defendant  
17 Johnson, the pornographic performer, with Plaintiff Blue. Each of these well-known and well-  
18 educated media and technology hosts erroneously believed that Forbes had chosen to honor  
19 Defendant Johnson, when it was Plaintiff Blue who had in fact been honored.

20 56. The confusion continues not only in the general public but also specifically in the  
21 adult film and entertainment industry. For example, as recently as October 6, 2007, Plaintiff Blue  
22 received an email from “Dave Pounder,” a purported acquaintance of Defendant Johnson, who  
23 has performed in pornographic films and on-line events with Defendant Johnson. The email is  
24 directed to Plaintiff Blue at the San Francisco Chronicle, where Plaintiff Blue writes the column  
25 “Open Source Sex”~~Sex~~, for SFGate.com. The email begins, “What’s up, girl! I see you are  
26 writing for SFgate.com now.... Very interesting.” It continues with the plainly mistaken belief  
27 that Plaintiff Blue is in fact Defendant Johnson: “I’ll never forget you because you were my first  
28 scene ever ...”. Plaintiff Blue has never met nor appeared in any film with “Dave Pounder”.

57. The confusion between Plaintiff Blue and Defendant Johnson, which continues to the present, results from Defendants ~~Johnson's~~ use of Plaintiff Blue's trademark name and likeness to promote Defendant Johnson's her pornographic content on the internet, through film and video distribution, and through ~~theher~~ website www.violetblue.org.

~~F.D.~~ DEFENDANT JOHNSON'S BROKEN PROMISE TO CEASE AND DESIST.

58. As recently as December 2006, Defendant Johnson promised to cease, desist, and quit the use of the name "Violet Blue". Making these promises explicit, Johnson wrote in to Plaintiff Blue that she is "finished doing Boy/Girl porn scenes, so your [Plaintiff's] name will no longer be on the front of porn box covers that say 'Shut up and blow me' and the like."

///

59. Despite more than one assurance to Plaintiff Blue by, Defendant Johnson, ~~Defendants have-has~~ nonetheless continued ~~her~~ their unauthorized and patently offensive use of Plaintiff Blue's valuable identity and trademark in ~~the Defendant Johnson's and Defendant VBI's~~ promotion of pornographic content on the internet, through film and video distribution, and through the paid subscription website www.violetblue.org.

60. Plaintiff Blue has consistently and clearly demanded that Defendant Johnsons cease, desist, and quit the use of the pseudonym "Violet Blue," because of the likelihood of confusion as to the origin of the works on which that name appears and because of the harm to Plaintiff

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Blue's identity, reputation, and good name resulting therefrom. Defendant Johnson has ~~Defendants have~~ refused to do so.

### **FIRST CAUSE OF ACTION**

#### **(Trademark Infringement)**

61. As and for a cause of action against Defendants, and each of them, Plaintiff adopts, realleges, and incorporates by reference all of the allegations contained hereinabove in paragraphs 1 through the immediately preceding paragraph as though fully set forth.

62. Plaintiff Blue, through continuous and exclusive use dating back at least until 1999, has acquired valuable trademark rights to the use of her mark VIOLET BLUE.

63. Plaintiff Blue is informed and believes and based thereon alleges that Defendants, and each of them, have created a likelihood of confusion as to sponsorship, connection, or authorization with Plaintiff Blue's valuable mark thereby constituting infringement of Plaintiff Blue's trademark rights.

64. The foregoing actions constitute a violation of 15 U.S.C. § 1125.

65. As a proximate result of Defendants' above-described conduct, Plaintiff Blue is informed and believes and based thereon alleges that she has suffered damage to her business, goodwill, and profits in an unascertained amount. Plaintiff Blue will seek leave to amend this Complaint when such damages have been ascertainable.

///

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66. The above-described acts of Defendants have caused and are continuing to cause irreparable injury to Plaintiff Blue, for which Plaintiff has no adequate remedy at law, and Defendants will continue to do so unless enjoined by this court.

## **SECOND CAUSE OF ACTION**

### **(Trademark Dilution)**

67. As and for a cause of action against Defendants, and each of them, Plaintiff adopts, realleges, and incorporates by reference all of the allegations contained hereinabove in paragraphs 1 through the immediately preceding paragraph as though fully set forth.

68. Plaintiff Blue, through continuous and exclusive use dating back at least until 1999, has acquired valuable trademark rights to the use of her mark VIOLET BLUE.

69. Plaintiff Blue's trademark is a famous mark, entitled to protection under the federal Lanham Act, 15 U.S.C § 1051, et seq.

70. Plaintiff Blue has no control over the quality of Defendants' offerings either through their web site or through brick-and-mortar sales establishments. As a result, such use by Defendants continues to dilute the distinctive qualities of Plaintiff's valuable trademark. The

dilution in this case is especially egregious, offensive, and damaging because of the base, obscene, and pornographic nature of the use being made by Defendants of Plaintiff's protected Violet Blue trademark.

71. Defendants' wrongful conduct, including but not limited to goods and services in the area of pornographic entertainment, constitutes an extreme threat to the distinctiveness and wholesome nature of the Plaintiff's mark that Plaintiff Blue has expended great time and effort to cultivate, develop, and maintain and greatly tarnishes the positive and high-quality reputation associated with Plaintiff Blue's trademark.

72. The foregoing actions constitute a violation of 15 U.S.C. § 1125.

73. As a proximate result of Defendants' above-described conduct, Plaintiff Blue is informed and believes and based thereon alleges that she has been damaged in an unascertained amount. Plaintiff will seek leave to amend this Complaint when such damages have been ascertained.

74. Defendants have, at all material times, acted in bad faith towards Plaintiff, thereby entitling Plaintiff to treble damages against Defendants, and each of them, in an unascertained amount. Plaintiff will seek leave to amend this Complaint when such damages have been ascertained.

75. The above-described acts of Defendants have caused and are continuing to cause irreparable injury to Plaintiff, for which Plaintiff has no adequate remedy at law, and Defendants will continue to do so unless enjoined by this court.

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### ++THIRD CAUSE OF ACTION

#### **(Violation Of Cal. Civil Code §3344)**

76. As and for a cause of action against Defendants, and each of them, Plaintiff adopts, realleges, and incorporates by reference all of the allegations contained hereinabove in paragraphs 1 through the immediately preceding paragraph as though fully set forth.

77. Plaintiff has the exclusive right to use her name and likeness for commercial

1 purposes.

2 78. Defendants violated Plaintiff's exclusive right to use her name and likeness for  
3 commercial purposes by knowingly using Plaintiff's name and likeness in their obscene and  
4 pornographic works without the permission or consent of Plaintiff. Defendants' use of Plaintiff's  
5 name and likeness has been and continues to be in a commercial product or to sell a commercial  
6 product.

7 79. The foregoing actions constitute a violation of California Civil Code § 3344.

8 80. As a proximate result of Defendants' above-described conduct, Plaintiff is  
9 informed and believes and based thereon alleges that she has been damaged in an unascertained  
10 amount. Plaintiff will seek leave to amend this Complaint when such damages have been  
11 ascertained.

12 81. The above-described acts of Defendants have caused and are continuing to cause  
13 irreparable injury to Plaintiff, for which Plaintiff has no adequate remedy at law, and Defendants  
14 will continue to do so unless enjoined by this court.

15 ///

16 **FOURTH CAUSE OF ACTION**

17 **(Unfair Competition)**

18 82. As and for a cause of action against Defendants, and each of them, Plaintiff  
19 adopts, realleges, and incorporates by reference all of the allegations contained hereinabove in  
20 paragraphs 1 through the immediately preceding paragraph as though fully set forth.

21 83. The actions of Defendants as described hereinabove constitute unfair competition  
22 under California common law.

23 //

24 84. As a proximate result of Defendants' above-described conduct, Plaintiff is  
25 informed and believes and based thereon alleges that she has been damaged in an unascertained  
26 amount. Plaintiff will seek leave to amend this Complaint when such damages have been  
27 ascertained.

28 85. The above-described acts of Defendants have caused and are continuing to cause

irreparable injury to Plaintiff, for which Plaintiff has no adequate remedy at law, and Defendants will continue to do so unless enjoined by this court.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Blue prays for judgment in her favor and against Defendants as follows:

1. An award of monetary damages, including recovery of Defendants' profits and the damages sustained by Plaintiff, arising from the acts of Defendants complained of herein, according to proof;
2. An award of trebled monetary damages, according to proof;
3. An award of prejudgment interest from the date of each wrongful act;
4. Injunctive relief against Defendants, and each of them, their officers, agents, employees, servants, attorneys, representatives, successors, and assigns, and all others in privity and acting on behalf of or in concert therewith, from using as a trademark, service mark, or otherwise referring to her goods and services, comprising and containing the phrase "Violet Blue," or any acronym of similar appearance, sound, or import as an indicator of goods in connection with any licensing, merchandising, or sale of goods or services;
5. An award of Plaintiff's attorneys' fees and costs; and

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6. Any and all further relief as may be deemed fit and proper.

Dated: ~~December~~~~October~~ \_\_, 2007

VOGELE & ASSOCIATES

By:



\_\_\_\_\_  
Colette Vogeles

Attorneys for Plaintiff VIOLET BLUE

**JURY DEMAND**

Pursuant to Fed R. Civ. P. 38(b) and Local Rule 3-6, Plaintiff hereby demands a trial by jury of all issues triable before a jury.

Dated: ~~December~~~~October~~ \_\_, 2007

VOGELES & ASSOCIATES

By: \_\_\_\_\_

Colette Vogeles

Attorneys for Plaintiff VIOLET BLUE